

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF PENNSYLVANIA (Pittsburgh)

IN RE:

PHYLLIS J. HANEY

Debtor

**SELECT PORTFOLIO SERVICING INC. AS
SERVICER FOR WELLS FARGO BANK, N.A.,
AS TRUSTEE, FOR PARK PLACE
SECURITIES, INC. ASSET-BACKED PASS-
THROUGH CERTIFICATES, SERIES 2005-
WCW2**

Movant

v.

PHYLLIS J. HANEY

Respondent

BK. No. 18-22636-TPA

Chapter No. 11

Hearing Date: 04/25/2019

Hearing Time: 10:00 AM

Objection Date: 04/08/2019

**MOTION OF SELECT PORTFOLIO SERVICING INC. AS SERVICER FOR WELLS
FARGO BANK, N.A., AS TRUSTEE, FOR PARK PLACE SECURITIES, INC. ASSET-
BACKED PASS-THROUGH CERTIFICATES, SERIES 2005-WCW2 FOR RELIEF FROM
THE AUTOMATIC STAY UNDER § 362 AND PURSUANT TO BANKRUPTCY
PROCEDURE RULE 4001 OR, IN THE ALTERNATIVE,
FOR ADEQUATE PROTECTION**

Movant, by its attorneys, Phelan Hallinan Diamond & Jones, LLP, hereby requests a termination of the automatic stay or, in the alternative, for adequate protection and leave to foreclose on its mortgage on real property owned by Debtor

1. Movant is **WELLS FARGO BANK, N.A., AS TRUSTEE, FOR PARK
PLACE SECURITIES, INC. ASSET-BACKED PASS-THROUGH CERTIFICATES,
SERIES 2005-WCW2.**

2. Debtor, **PHYLLIS J. HANEY (deceased)**, is the owner of the premises located at **199 BLACKHAWK ROAD, BEAVER FALLS, PA 15010**, hereinafter known as the mortgaged premises.

3. Movant is the holder of a mortgage, original principal amount **\$213,750.00** on the mortgaged premises, that was executed on **April 22, 2005**.

4. Movant wishes to institute foreclosure proceedings on the mortgage because of Debtor's failure to make the monthly payment required thereunder.

5. As of February 20, 2019, the principal balance owed on the loan is \$178,612.71.

6. As of February 20, 2019, interest in the amount of \$20,617.97 has accrued since the application of the last payment received from the Debtor.

7. As of February 20, 2019, the following charges, fees and costs have been added to the balance of the loan and are due and owing to Movant: Escrow Advance in the amount of \$3,567.06, Interest on Advance in the amount of \$76.30, and Accrued Late Charges in the amount of \$2,199.34. and Fees and Costs in the amount of \$450.00.

8. As of February 20, 2019, the payoff due on the mortgage is \$205,523.38.

9. As of February 20, 2019, Debtor has failed to tender payments for the months of December 2017 through February 2019. The monthly payments for December 2017 through June 2018 are \$1,692.34 each, the monthly payments for July 2018 through November 2018 are \$2,003.78 each, and the monthly payments for December 2018 through February 2019 are \$2,003.79 each. The next payment is due on or before March 1, 2019 in the amount of \$2,003.79.

10. As of February 20, 2019, the amount necessary to reinstate the loan is \$30,525.99.

11. The fair market value of the premises is \$210,000.00 based on the debtor's Chapter 11 Schedule A. A copy of the Chapter 11 Schedule A is attached hereto as Exhibit "A" and made a part hereof.

12. There are no liens on the premises that are senior to Movant's lien.

13. According to the Debtor's Schedule D and Title Report, the following are additional liens on the mortgaged premises:

- HSBC - \$390,000.00 (Second Mortgage)
- Commonwealth of PA Department of Revenue - \$22,257.38
- Department of Revenue - \$2,617.11
- Commonwealth of PA Department of Revenue - \$691.87
- Commonwealth of PA Department of Revenue - \$7,067.99
- Commonwealth of PA Department of Revenue - \$4,068.12
- Commonwealth of PA Department of Revenue - \$48,955.17
- Commonwealth of PA Department of Revenue - \$20,419.65
- Commonwealth of PA Department of Revenue - \$18,154.40
- Commonwealth of PA Department of Revenue - \$2,101.12
- Commonwealth of PA Department of Revenue - \$2,157.10
- Commonwealth of PA Department of Revenue - \$9,938.28
- Commonwealth of PA Department of Revenue - \$6,402.58
- Internal Revenue Service - \$194,807.60
- Internal Revenue Service - \$41,706.31

14. A copy of Debtor's Schedule D: Creditors Who Have Claims Secured by Property is attached hereto as **Exhibit "B"** and made a part hereof.

15. A copy of Title Report is attached hereto as **Exhibit "C"** and made a part hereof.

16. The foreclosure proceedings to be instituted were stayed by the filing of the instant Chapter 11 Petition.

17. The Debtor has no equity in the premises.

18. A chapter 11 plan of reorganization has not yet been filed in this case, and Movant is not aware of the Debtor's intention with regards to the mortgaged premises.

19. Movant's interest in the mortgaged premises is not adequately protected.
20. Movant has cause to have the automatic stay terminated as to permit Movant to complete foreclosure on its mortgage. In the alternative, Debtor should be required to provide adequate protection payments to Movant pending confirmation of a chapter 11 plan.
21. Movant specifically requests permission from the Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

- a. modifying the automatic stay under 11 U.S.C. § 362 of the Bankruptcy Code with respect to the mortgaged premises as to permit the Movant, its successors or assignees, to foreclose on its mortgage or take any legal or consensual action enforcement of its right to possession of, or title to, said premises (such actions may include but are not limited to the signing of a deed in lieu of foreclosure or entering into a loan modification agreement) and to allow the purchaser of said premises at Sheriff's Sale (or purchaser's assignee) to take any legal or consensual action for enforcement of its right to possession of, or title to, said premises; and

- b. granting any other relief that this Court deems equitable and just.

/s/ Jodi L. Hause, Esquire
Jodi L. Hause, Esq., Id. No.90625
Phelan Hallinan Diamond & Jones, LLP
Omni William Penn Office Tower
555 Grant Street, Suite 300
Pittsburgh, PA 15219
Phone Number: 215-563-7000 Ext 31502
Fax Number: 215-568-7616
Email: Jodi.Hause@phelanhallinan.com

March 21, 2019